

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAY HARDWOOD OLD CHIEF,

Defendant.

CR 14-02-GF-BMM

ORDER

This case was referred to United States Magistrate Judge John Johnston for a revocation hearing and findings and recommendations. Judge Johnston entered his findings and recommendations on November 21, 2016. Defendant admitted that he had violated the conditions of his supervised release by using methamphetamine, by failing to report to his probation officer as directed, by failing to report for outpatient substance abuse treatment, by failing to report for substance abuse testing, and by failing to complete inpatient substance abuse treatment. Judge Johnston found the admissions sufficient to establish the alleged supervised release violations. He recommended that this Court revoke Defendant's supervised release and commit him to the custody of the United States Bureau of Prisons for a term of

imprisonment of four months, with 32 months of supervised release to follow.

Judge Johnston further recommended that the term of supervised release include two months of inpatient drug treatment and six months in a Residential Reentry Center.

Defendant filed a timely objection. (Doc. 88). Defendant objects to the recommendation that he spend six months in a Residential Reentry Center while on supervised release.

The Court reviews *de novo* findings and recommendations to which a defendant objects. 28 U.S.C. § 636(b)(1). Findings and recommendations to which no objection is made are reviewed for clear error. *McDonnell Douglas Corp. Commodore Bus. Mach, Inc.*, 656 F.2d 1309, 1319 (9th Cir. 1981).

For the reasons stated below, this Court adopts Judge Johnston's Findings and Recommendations.

This Court agrees with Judge Johnston's findings. Defendant admitted he had violated the conditions of his supervised release. Defendant could be incarcerated for up to 24 months, followed by 36 months of supervised release less any custody time imposed. The United States Sentencing Guidelines call for a term of imprisonment of three to nine months. A sentence of four months in custody, followed by 32 months of supervised release is appropriate. The The

sentence is sufficient but not greater than necessary.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 87) are ADOPTED in full and Judgment shall be entered accordingly.

DATED this 12th day of December, 2016.



Brian Morris
United States District Court Judge